



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

investigation which has appeared in recent years. He has described in great detail the organization of the business of ocean transportation, and what is of even greater value, he has explained and discussed the operation of the principles which underlie the operations of this important industry. The book will be of practical value to all those who are engaged in the business with which it deals, as well as to students of commerce and commercial geography.

E. S. MEADE.

University of Pennsylvania.

Veblen, Thorstein. *The Theory of Business Enterprise.* Pp. viii, 400. Price, \$1.50. New York: Charles Scribner's Sons, 1904.

The author presents his theory of the modern economic situation from the view-point of business traffic. The book lacks the desirable quality of terseness and the writer at times wanders from the main line of his subject. A commendable feature is the formulation of many of his statements in symbols of mathematics, which are not incorporated in the text, but in foot-notes. Modern business is no longer based so much upon mere commerce or trade as upon the processes of industry. We deal now in capital, in stocks and bonds, as well as in goods themselves. Industry is no longer so much a quest for livelihood as it is a seeking for profits.

The concluding chapters of the book dwell at some length upon the influences which this "machine process," as he terms the industrial situation, has upon the thought and civilization of the world.

While we may agree that the modern world does have a skeptical, materialistic, matter-of-fact attitude of mind, it seems rather strong to say this view is due to the machine process entirely. Is the Church not losing its influence largely because other institutions are coming in which do its old work more effectively than the church formerly did? In one sense it undoubtedly is due to that influence, for modern business is an outgrowth of the present industrial processes, and business methods have been adopted by these later and more effective institutions.

Business enterprise, to cite the author, may make our literature affected and archaic and may promulgate spendthrift aspirations. To imply that business enterprise will cause man to give up his spiritual beliefs is hard to accept.

JOHN C. DUNCAN.

University of Pennsylvania.

Willoughby, Weston Woodbury. *The American Constitutional System.* Pp. xvi, 323. Price, \$1.25. New York: The Century Company, 1904.

This book contains within small compass a clear and usually exact statement of the constitutional aspects of the political organization of the United States, including the nature of the federal government, its relations to the states and other territory under its sovereignty, the political status of various classes of persons subject to it, and the relations of the states to each other.

Nearly one-third of the volume is devoted to the interesting but now somewhat academic question of the nature of the federal bond: whether it formed a confederacy or a nation; and to a discussion of the theory of the reconstruction acts. Professor Willoughby's analysis of the first of these subjects is not the most satisfactory part of his work. His inference from the circumstances of the adoption of the constitution is that the people desired and believed they were obtaining a legally indissoluble union by an agreement between sovereign states. Laying down the premise that this was logically impossible because sovereignty (according to recent definitions) cannot be divided, he further infers that if this dilemma of definition had been fairly presented to the people in 1788 they would have said: "If the orthodox definition compels us to elect between sovereignties we will choose that of the states." He therefore concludes that no truly sovereign national state received its organization by the adoption of the constitution, but that this result was reached by a peaceful revolution of public opinion during the next generation.

The real excellence of Professor Willoughby's work appears most plainly when he leaves this speculative field and deals with the actual political operation of the constitution as interpreted by the United States Supreme Court. Here he has been highly successful in stating the conclusions of a sound constitutional lawyer in a form readily comprehensible by intelligent laymen—an achievement not common. The scope of this part of the work may be best indicated by mentioning some of the subjects discussed, which include the supremacy of federal law, federal and state autonomy, federal and state powers, federal supervision of state duties, the acquisition of territory, the political and civil status of territorial inhabitants, citizenship, new states and interstate relations. As particularly interesting may be mentioned the author's views of the right of the United States to protect aliens, resident in a state (pp. 107-110); his discussion of the doctrine of "inherent sovereignty" as the source of implied federal powers (pp. 146-150, 196-197); the chapters on the acquisition of territory (XI-XII); and those upon the constitutional status of inhabitants of territories, including our "dependencies" (XIII-XIV, XVII). Regarding the last mentioned subject there is room for such reasonable divergence of opinion that it is difficult to find acceptable common ground upon which to base criticism. Perhaps all that can be demanded of a partisan in this field is that his argument be fairly consistent, and it is from this standpoint that Professor Willoughby attacks the position of the majority justices in the insular cases, particularly that of Mr. Justice Brown. In this, as in much of the controversial writing upon the question, it seems to the writer that Mr. Justice Brown has been misapprehended. When the latter affirms that the constitution was adopted by the states for the states, and that therefore it may well be thought that some at least of the prohibitions upon Congress were meant to apply only to its action in the states, it is surely not convincing to claim, as did Mr. Carlisle (approved by Professor Willoughby), that this logically involves the conclusion that Congress has no power at all outside of the states. Nor can it be asserted that the Justice is "indubitably incorrect" (p. 222) when he says that when Congress has once formally

extended the constitution to territories it cannot withdraw it. One may disagree with this *dictum*, and yet candidly admit that there is a sufficient analogy to the case of the admission of a state or the naturalization of an alien by Congress (neither of which could be revoked) to make this position a good way short of "indubitably" wrong. Another objection of Professor Willoughby to the *Downes* case, which seems unfounded, is that a tariff on goods between the states and a territory affects the states to some extent and so must be subject to the constitutional limitations upon Congress when legislating for the states. It should be noticed, however, that Congress is not forbidden thus to affect the states, so long as "duties are uniform throughout the United States." If Porto Rico be outside of the United States, as the court decided it was, within the meaning of "United States" in this clause, and if duties be levied equally upon all goods going from this island to any state, it would seem that uniformity is as much observed as in the case of duties on goods from England. As to duties on goods going from the states to Porto Rico the objection would be not lack of uniformity but that it was an export tax, a position inconsistent with a number of earlier *dicta* of the court which had declared "export" and "import" to be used in the constitution with reference to *foreign* countries only. (*Brown v. Houston*, 114 U. S. 622, 628; *Pittsburgh Coal Co. v. Louisiana*, 156 U. S. 590, 600.)

The author makes a slip (p. 152) in stating that the first eight amendments were an unnecessary precaution. As he points out elsewhere (p. 141) a power given to the United States is absolute, unless restrained by the constitution itself, and in the exercise of such powers property could easily be taken arbitrarily, or jury trials dispensed with, but for the amendments. The Tea Exclusion and the Oleomargarine Tax Cases just decided show how absolute the granted powers are construed to be. (*Buttfield v. Stranahan*, 192 U. S. 470; *McCray v. U. S.*, 195 U. S. 27.)

JAMES PARKER HALL.

University of Chicago Law School.